

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

UNITED BOATMEN, et al.,)
)
)
Plaintiffs,)
)
v.)
)
CARLOS GUTIERREZ, in his official capacity)
as Secretary of the United States Department of)
Commerce, et al.)
)
Defendants.)
)

No. 06-CV-400 (JBW)

MEMORANDUM **FILED**
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ MAR 9 2006 ★

P.M. _____
TIME A.M. _____

JACK B. WEINSTEIN, Senior District Judge:

By an amended complaint filed February 15, 2006, plaintiffs, representing this area's commercial and recreational fishing industries, sue various federal authorities. They claim that the amount of summer flounder (fluke) allowed to be landed during the 2006 fishing season is too low and that appropriate procedures have not been followed in setting that amount.

Because the fishing season begins in May, the court, on its own motion, before the filing of an answer or any party's motion, ordered a preliminary hearing for March 2, 2006. The parties now request a delay to March 10, 2006 at 10:00 A.M. That delay is granted.

The parties are reminded that the 2006 fluke season is close upon us. It requires preparation—and probably considerable expenditures—by the fishing and tourist industries that will be dependent to some degree on the amount and size of fluke to be landed and the division between commercial and recreational fishers.

The parties will forthwith furnish each other and the court with all relevant documents and reports. If they plan to rely on expert testimony, they will promptly comply with Rule 26(a)(2) of the Rules of Civil Procedure on duty of disclosure without awaiting a discovery request. Schedules of any required *Daubert* hearings on experts' qualifications and admissibility of their reports shall be arranged immediately with Case Coordinator June Lowe.

The parties shall move for summary judgment, or other appropriate relief on the merits, with argument to be heard on March 10, 2006. If the matter can be resolved amicably the parties shall settle promptly.

Dawdling is not acceptable. Anglers are an impatient lot.

(SO ORDERED.)
s/JBW

✓Jack B. Weinstein
Senior United States District Judge

Dated: March 2, 2006
Brooklyn, New York